

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
REGIONET WIRELESS LICENSE, LLC)
)
Amendment of Part 80 of the)
Commission's Rules Concerning Automated)
Maritime Telecommunications System Stations)

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To: The Commission

REPLY COMMENTS

Regionet Wireless License, LLC, by its attorney, hereby submits its Reply Comments in response to comments filed in the above captioned matter by Maximum Service Television (MSTV); National Association of Broadcasters (NAB); Dispatch Broadcast Group (Dispatch); KM Communications, Inc. (KM); Gateway Communications, Inc. (Gateway); and North Texas Public Broadcasting, Inc. (North Texas) (collectively, the "Broadcasters"). In support of its position, Regionet shows the following.

None of the Broadcasters was able to refute the essential point of Regionet's Petition for Rule Making that yesterday's engineering is not giving useful results today. None of the Broadcasters even suggested that engineering studies based on 1975 data give useful results in 1999.

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Four of the Broadcasters¹ relied on identical statements by Warren M. Powis, P.E. (Powis). Powis' statement did not refute RegioNet's demonstration that television receivers are, on average, much, much better than the receivers of 1975. With a universe of 53 tested receivers, RegioNet would have been statistically justified in not including the extreme outliers at both ends of the quality spectrum, but RegioNet chose to include the extremes and avoid any implication that it had hidden any of the data. Certainly, not every receiver is average, and someone, somewhere, still proudly has a DuMont, Stetchel-Carlson, or Muntz receiver, but a receiver which is not as good as one produced before 1976 surely has so many other shortcomings that the effect of AMTS interference would be immaterial to the viewer's enjoyment.

Powis did not dispute the conclusions of the report of Alan Davidson, submitted by RegioNet, that the engineering "parameters developed in 1982 are conservative by 20 dB or more." The undisputed findings of Davidson, alone, provide a sufficient basis for the Commission to commence a rule making proceeding.

North Texas mischaracterized RegioNet's Petition, incorrectly stating that "RegioNet proposes to relax interference standards" for AMTS stations, North Texas at 1, and MSTV incorrectly suggested that RegioNet had proposed to "relax the protection criteria," MSTV at 4. RegioNet fully accepts the requirement of 47 C.F.R. §80.215(h) that no harmful interference

¹ Dispatch, KM, Gateway, and North Texas.

be caused to television reception except that TV services authorized subsequent to the filing of the AMTS station application will not be protected. RegioNet also accepts, and does not propose to diminish, its responsibility to have “a plan to control any interference caused to TV reception within the Grade B contour, make such adjustments in the TV receivers affected as may be necessary to eliminate interference,” and to discontinue operation of any AMTS station which causes harmful interference which is not remedied within 90 days. RegioNet also proposes to continue to carry out its responsibility to notify broadcasters of the filing of an application, and to adapt itself to changes in circumstances to protect both cable and over the air reception of broadcast television.

KM suggested that AMTS stations should, where possible, co-locate with Channel 13 television stations. RegioNet recognizes that the potential for interference will be uniform throughout the service area of the TV station when TV and AMTS stations are co-located. While co-location is not possible in every instance, nationwide, RegioNet intends to file an application for co-location with KM’s low power television station in Chicago.

Dispatch appeared to be more concerned with limiting competition in the Commercial Mobile Radio Services field than with the subject of RegioNet’s Petition for Rule Making. It should be noted that the Commission did not, as suggested by Dispatch, deny Orion Telecom’s application for a station near Indianapolis because Orion would provide additional CMRS service to the area. While Dispatch supported the current engineering requirement as primarily an

impediment to increased CMRS competition, the Commission continues to foster as much competition as possible among CMRS carriers.

The Commission's Rules recognize that that engineering is predictive and that predictions are not certainties. The prediction of a potential for interference does not assure that any interference will actually occur. The prediction that no potential for interference exists does not assure that no interference will occur, and, for that reason, the Commission's Rules provide a period of time for an AMTS licensee to correct any actual interference. The prediction of an engineering effort can be no more valid than the data and fomulae which are used. If engineering is to be useful as a predictive tool, it should be based on the best available, current data and formulas which take into account all material factors. Practical AMTS experience demonstrates that engineering studies should no longer be required to be submitted with AMTS applications, but if the Commission is to continue to require engineering, the engineering should be based on current knowledge.

One sound reason for commencing a rule making proceeding was presented by NAB's recognition that there are a number of unanswered questions, NAB at 4. Powis, too, relied on by four of the Broadcasters, suggested that some questions should be explored further. KM and Powis suggested that the Commission or the television industry might conduct tests.^{2,3}

² RegioNet does not believe that further studies are required, but if the television industry desires to underwrite further tests, RegioNet is certainly willing to cooperate. When RegioNet offered to conduct cooperative field trials with a broadcaster with respect to a specific application, its approach was rebuffed, but RegioNet remains cooperative.


RegioNet's Petition for Rule Making requests a rule making proceeding, not an immediate ruling. In the requested rule making proceeding, interested persons can present information bearing on all relevant questions.

Conclusion

For all the foregoing reasons, the Commission should release a Notice of Proposed Rule Making looking toward the elimination of the AMTS engineering requirements.

Respectfully submitted,
REGIONET WIRELESS LICENSE, LLC

By


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Dated: August 2, 1999

³ As closely as information concerning the Commission's 1975 tests would allow, Professor A.E. Hull of California State Polytechnic Institute conducted her studies in the same manner as the Commission had in 1975.

CERTIFICATE OF SERVICE

I hereby certify that on this second day of August, 1999, I served a copy of the foregoing Reply Comments on each of the following persons by placing a copy in the United States Mail, first-class postage prepaid:

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A handwritten signature in black ink, appearing to read "Dennis C. Brown", written over a horizontal line.

Dennis C. Brown